

## REMARKS

Reconsideration of the application identified in caption, pursuant to and consistent with 37 C.F.R. § 1.111 and in light of the remarks which follow, is respectfully requested.

Claims 15, 16, 19 and 23-30 are all of the claims pending in the present application.

### **I. Drawings**

Applicants note that formal drawings (3 sheets) were previously submitted January 13, 2004. The Examiner is respectfully requested to acknowledge acceptance of the drawings in the next PTO communication.

### **I. Response to Rejections Under Nonstatutory Obviousness-Type Double Patenting**

a. Claims 15, 16, 19 and 23-30 were rejected under nonstatutory obviousness-type double patenting as allegedly unpatentable over Claims 11-20 of U.S. Patent No. 6,568,390 to Nichols in view of U. S. Patent Application Publication No. 2004/0202617 to Rabinowitz.

b. Claims 15, 16, 19 and 23-30 were rejected under nonstatutory obviousness-type double patenting as allegedly unpatentable over Claims 1-52 of U.S. Patent No. 6,234,167 to Cox in view of U.S. Patent Application Publication No. 2004/0202617 to Rabinowitz.

While not conceding the propriety of these rejections, Applicants submit herewith a Terminal Disclaimer to expedite prosecution. The filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal

disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

In view of the above, the Examiner is respectfully requested to reconsider and withdraw the nonstatutory obviousness-type double patenting rejections.


**III. Conclusion**

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (202) 452-7932 at his earliest convenience.

Respectfully submitted,

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